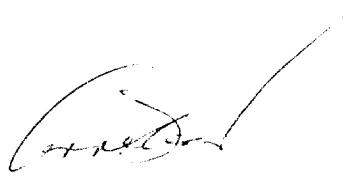


A RESOLUTION

BY COUNCILMEMBER DEBI STARNES



05-R-0109

A RESOLUTION AUTHORIZING THE MAYOR OR CITY ATTORNEY TO SIGN AN AMICUS BRIEF ON BEHALF OF THE CITY OF ATLANTA, INDICATING THAT THE CITY OF ATLANTA SUPPORTS THE LEGAL ARGUMENTS OF PLAINTIFFS CHALLENGING THE CONSTITUTIONALITY OF GEORGIA'S AMENDMENT 1 AND THE MISLEADING BALLOT LANGUAGE OF THAT AMENDMENT, AND FOR OTHER PURPOSES.

WHEREAS, in its 2004 legislative session, the Georgia Legislature passed a bill that placed on the November 2004 ballot a question regarding whether the Georgia Constitution should be amended in a manner that restricts the States' recognition of gay and lesbian relationships ("Amendment 1"); and

WHEREAS, the Georgia electorate approved Amendment 1 in the November 2, 2004 election; and

WHEREAS, Amendment 1 provides that the Georgia Constitution be amended such that Georgia "shall recognize as marriage only the union of man and woman" ("Section A"). In addition, the Constitutional Amendment provides, among other things, that no same sex unions of any kind be recognized by the State as entitled to the benefits of marriage, and that the Georgia Courts be unable to consider certain lawsuits regarding same sex relationships ("Section B"); and

WHEREAS, Section B will impact the ability of some gay and lesbian couples to obtain health insurance, to obtain sick leave for care of their partners, would jeopardize gay and lesbian parents' custody and child visitation rights, would impact the ability of gay men and lesbians to use the Family Medical Leave Act to care for sick and dying partners, would impact the ability of gay men and lesbians to visit their partners in the hospital, would impact the ability of some gay men and lesbians to make medical decisions for their partners, would impact survivor benefits, and would deny certain general legal protections for gay men and lesbians; and

WHEREAS, Section A and Section B address two different sets of rights; and

WHEREAS, the Georgia November 2, 2004 ballot asked the Georgia electorate whether the language of Section A should be added to the Georgia Constitution, but did not indicate that passage of Amendment 1 would also result in the language of Section B being added to the Georgia Constitution. The ballot did not show Section B at all and therefore did not inform voters of the wide-ranging impact of the Constitutional Amendment; and

WHEREAS, the Amendment 1 ballot language was deceptive and misled Georgia voters; and

WHEREAS, the Plaintiffs in a Fulton County Superior Court case entitled O'Kelly vs. Perdue, (the "Plaintiffs"), are challenging the constitutionality of Amendment 1 based upon: 1) Amendment 1's violation of the single subject rule, which requires that proposed constitutional amendments pertain to one subject only; and 2) Amendment 1's misleading ballot language that failed to apprise voters of the full scope of the amendment, thereby depriving voters of their right to due process; and

WHEREAS, this Council agrees that Amendment 1, and its wording on the November 2, 2004 ballot, are unconstitutional, and supports the Plaintiffs' lawsuit and the arguments raised therein.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or the City Attorney, on behalf of the City of Atlanta, is authorized and directed to sign an amicus brief in the Fulton County Superior Court case of O'Kelly vs. Perdue, where said amicus brief supports the arguments of the Plaintiffs, and specifically supports the argument that Amendment 1 violated the same subject rule, and that Amendment 1's misleading ballot language violated the Georgia voters' right of due process.

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05-R-0109

(Do Not Write Above This Line)

A RESOLUTION

BY COUNSELMEMBER DEBI STARNES

A RESOLUTION AUTHORIZING ATTORNEY TO SIGN AN AMICUS BRIEF ON BEHALF OF THE CITY OF ATLANTA, INDICATING THAT THE CITY OF ATLANTA SUPPORTS THE LEGAL ARGUMENTS OF PLAINTIFFS CHALLENGING THE CONSTITUTIONALITY OF GEORGIA'S AMENDMENT 1 AND THE MISLEADING BALLOT LANGUAGE OF THAT AMENDMENT, AND FOR OTHER PURPOSES.

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 11/15/05

Referred To: Public Safety & Security

Date Referred 12-10-05

Referred To: Finance

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____

Date _____

Chair _____

Referred To _____

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

CERTIFIED

- FINAL COUNCIL ACTION
- ☐ 2nd
 - ☐ 1st & 2nd
 - ☐ 3rd
 - ☐ Consent
 - ☐ V Vote
 - ☐ RC Vote

MAYOR'S ACTION